

105TH CONGRESS  
1ST SESSION

# H. R. 1881

To establish the Tobacco Accountability Board.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1997

Mr. WAXMAN introduced the following bill; which was referred to the  
Committee on Commerce

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## A BILL

To establish the Tobacco Accountability Board.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Tobacco Accountability  
5       Act”.

6       **SEC. 2. TOBACCO ACCOUNTABILITY BOARD.**

7       (a) ESTABLISHMENT.—There is established an inde-  
8       pendent board to be known as the Tobacco Accountability  
9       Board.

10       (b) MEMBERSHIP.—The Board shall consist of 5  
11       members with expertise relating to tobacco and public  
12       health. The members, including the chair, shall be ap-

1 pointed by the Secretary of Health and Human Services.  
 2 The initial members of the Board shall be appointed by  
 3 the Secretary within 30 days of the date of the enactment  
 4 of this Act. A member of the Board may be removed by  
 5 the Secretary only for neglect of duty or malfeasance in  
 6 office.

7 (c) TERMS.—The term of office of a member of the  
 8 Board shall be 6 years, except that the members first ap-  
 9 pointed shall have terms of 2, 3, 4, and 5 years, respec-  
 10 tively, as determined by the Secretary.

11 **SEC. 3. DISCLOSURE OF TOBACCO INDUSTRY DOCUMENTS.**

12 (a) SUBMISSION BY MANUFACTURERS.—Not later  
 13 than 3 months after the date of the enactment of this Act  
 14 and thereafter as required by the Board, each tobacco  
 15 manufacturer shall submit to the Board a copy of all docu-  
 16 ments in the manufacturer's possession—

17 (1) relating to—

18 (A) any health effects, including addiction,  
 19 caused by the use of tobacco products;

20 (B) the manipulation or control of nicotine  
 21 in tobacco products; or

22 (C) the sale or marketing of tobacco prod-  
 23 ucts to children; or

24 (2) produced, or ordered to be produced, by the  
 25 tobacco manufacturer in the case entitled State of

1 Minnesota v. Philip Morris, Inc, Civ. Action No. C1-  
2 94-8565 (Ramsey County, Minn.) including attor-  
3 ney-client and other documents produced or ordered  
4 to be produced for in camera inspection.

5 (b) DISCLOSURE BY THE BOARD.—Not later than 6  
6 months after the date of the enactment of this Act and  
7 thereafter as required by the Board, the Board shall, sub-  
8 ject to subsection (c), make available to the public the doc-  
9 uments submitted under subsection (a).

10 (c) PROTECTION OF TRADE SECRETS.—The Board,  
11 members of the Board, and staff of the Board shall not  
12 disclose information that is entitled to protection as a  
13 trade secret unless the Board determines that disclosure  
14 of such information is necessary to protect the public  
15 health. This subsection shall not prevent the disclosure of  
16 relevant information to other Federal agencies or to com-  
17 mittees of the Congress.

18 **SEC. 4. INVESTIGATION AND ANNUAL REPORTS.**

19 The Board shall investigate all matters relating to the  
20 tobacco industry and public health and report annually on  
21 the results of the investigation to Congress. Each annual  
22 report to Congress shall, at a minimum, disclose—

23 (1) any efforts by tobacco manufacturers to  
24 conceal research relating to the adverse health ef-

1       fects or addiction caused by the use of tobacco prod-  
2       ucts;

3           (2) any efforts by tobacco manufacturers to  
4       mislead the public or any Federal, State, or local  
5       elected body, agency, or court about the adverse  
6       health effects or addiction caused by the use of to-  
7       bacco products;

8           (3) any efforts by tobacco manufacturers to sell  
9       or market tobacco products to children; and

10          (4) any efforts by tobacco manufacturers to cir-  
11       cumvent, repeal, modify, impede the implementation  
12       of, or prevent the adoption of any Federal, State, or  
13       local law or regulation intended to reduce the ad-  
14       verse health effects or addiction caused by the use  
15       of tobacco products.

16 **SEC. 5. TOBACCO MANUFACTURER BOARD MEETINGS.**

17       Each tobacco manufacturer shall permit a represent-  
18       ative designated by the Board to attend and participate  
19       in all meetings of the board of directors of the tobacco  
20       manufacturer, including any executive session or commit-  
21       tee meetings thereof. Each tobacco manufacturer shall  
22       provide the representative designated by the Board a copy  
23       of all documents or other information provided by the to-  
24       bacco manufacturer to any director of the manufacturer  
25       who is not an employee of the manufacturer.

1 **SEC. 6. AUTHORITIES.**

2       The Board, any member of the Board, or staff des-  
3 ignated by the Board may hold hearings, administer oaths,  
4 require the testimony or deposition of witnesses, the pro-  
5 duction of documents, or the answering of interrogatories,  
6 or, upon presentation of the proper credentials, enter and  
7 inspect facilities.

8 **SEC. 7. ENFORCEMENT.**

9       (a) RESPONSIBILITIES OF TOBACCO MANUFACTUR-  
10 ERS.—Notwithstanding any other provision of law, to-  
11 bacco manufacturers shall provide any testimony, deposi-  
12 tion, documents, or other information, answer any inter-  
13 rogatories, and allow any entry or inspection required pur-  
14 suant to this Act, except to the extent that a constitutional  
15 privilege protects the tobacco manufacturer from comply-  
16 ing with such requirement.

17       (b) PROHIBITED ACT.—Section 301 of the Federal  
18 Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amend-  
19 ed by adding at the end the following:

20       “(x) The failure to comply with any requirement  
21 under the Tobacco Accountability Act.”.

22 **SEC. 8. ADMINISTRATION.**

23       (a) STAFF.—The Chair shall exercise the executive  
24 and administrative functions of the Board and shall have  
25 the authority to hire such staff as may be necessary for  
26 the operation of the Board.

1 (b) SALARIES.—The members of the Board shall re-  
2 ceive such salary and benefits as the Secretary deems nec-  
3 essary, except that the salary of the Chair shall not be  
4 less than level III of the Executive Schedule (5 U.S.C.  
5 5314).

6 **SEC. 9. DEFINITIONS.**

7 For purposes of this Act:

8 (1) BOARD.—The term “Board” means the To-  
9 bacco Accountability Board.

10 (2) MANUFACTURE.—The term “manufacture”  
11 means the manufacturing, including repacking or re-  
12 labeling, fabrication, assembly, processing, labeling,  
13 or importing of a tobacco product.

14 (3) TOBACCO MANUFACTURER.—The term “to-  
15 bacco manufacturer” means—

16 (A) any person who manufactures a to-  
17 bacco product; or

18 (B) the Tobacco Institute, the Council for  
19 Tobacco Research, the Smokeless Tobacco  
20 Council, the Center for Indoor Air Research, or  
21 any other trade association or entity that is pri-  
22 marily funded by persons who manufacture a  
23 tobacco product.

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